

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COLUMBIA RIVERKEEPER, et al.,

Case No. C17-289RSM

Plaintiffs,

V.

SCOTT PRUITT, et al.,

ORDER DENYING DEFENDANTS'
MOTION TO SUSPEND BRIEFING
SCHEDULE

Defendants.

This matter comes before the Court on Defendants' Motion to Suspend Briefing Schedule, filed on August 21, 2017, and noted for consideration on September 1, 2017, the second Friday after filing. Dkt. #18. Plaintiffs filed their Response at 4:03 PM on the noting date. Dkt. #28. Defendants did not file a reply brief.

On June 13, 2017, at the request of the parties, the Court entered a Scheduling Order establishing deadlines for cross-motions for summary judgment. Dkt. #15. Under that Order, Plaintiffs' motion for summary judgment was due August 14, 2017. On August 3, 2017, the parties jointly moved to extend the deadline for Plaintiffs' motion for summary judgment until August 30, 2017. Dkt. #16. The Court granted that relief. Dkt. #17. Plaintiffs filed their Motion for Summary Judgment on August 30, 2017. Dkt. #19.

1 Defendants request the Court “suspend the briefing schedule in the above-captioned
2 matter for 90 days, or until November 19, 2017.” Dkt. #18 at 1. Defendants request this relief
3 because the EPA sent a letter to the States of Washington, Oregon, and Idaho on August 10,
4 2017, which could affect the underlying issues of this case. *See* Dkt. #18 at 2; Dkt. #18-1.

5 A motion for relief from a deadline is one of three types of motions permitted by this
6 Court to be heard as a “Second Friday Motion.” *See* LCR 7(d)(2). The response brief to such a
7 Motion is due the Wednesday before the noting date. *Id.* A motion requesting a stay or other
8 similar relief would likely be considered a “Third Friday Motion” unless stipulated by the
9 parties. *See* LCR 7(d). “A motion for relief from a deadline should, whenever possible, be
10 filed sufficiently in advance of the deadline to allow the court to rule on the motion prior to the
11 deadline.” LCR 7(j). “Parties should not assume that the motion will be granted and must
12 comply with the existing deadline unless the court orders otherwise.” *Id.*

13 The Court begins by noting that both parties have committed procedural errors.
14 Defendants filed the instant Motion without clearly captioning it as a motion for relief from a
15 deadline. However, because they noted it for consideration on the second Friday after filing,
16 the Court interprets it as such. Defendants failed to file this Motion sufficiently in advance of
17 the deadline of August 30, 2017, to allow the court to rule on the motion prior to that deadline.
18 Plaintiffs violated Local Rule 7(d) by filing their Response on the noting date.

19 The Court finds it can reach a decision on this Motion without relying on Plaintiffs’
20 Response brief. Based on the record before the Court, it appears Defendants have created the
21 very problem they are attempting to rectify with a stay. Defendants stipulated to the current
22 briefing schedule, then sent out the letter to the States knowing that it could affect the briefing
23 in this matter. Furthermore, Defendants waited until August 21, 2017, eleven days after
24

1 sending out the letter, to request the instant relief. Given that filing date, the Motion could not
2 be ruled on until after Plaintiffs' briefing was due. Now that Plaintiffs have filed their Motion
3 for Summary Judgment, it is not possible to extend the deadline for that brief. Defendants have
4 seen that briefing and could receive an unfair advantage in crafting a response. Even if
5 Defendants are correct that the letter to the States changes the issues before the Court,
6 supplemental briefing can be ordered if necessary. Given all of this, Defendants have failed to
7 show that a stay of briefing will promote judicial efficiency or is warranted under the Court's
8 Local Rules.

10 Having reviewed the relevant briefing and the remainder of the record, the Court hereby
11 finds and ORDERS that Defendants' Motion to Suspend Briefing Schedule (Dkt. #18) is
12 DENIED.

14
15 DATED this 5 day of September, 2017.

18
19 
20 RICARDO S. MARTINEZ
21 CHIEF UNITED STATES DISTRICT JUDGE
22
23
24
25
26
27
28